

REMARKS

Claims 1-3, 7-9, and 11-24 are pending in the application. Claims 11-24 have been cancelled by this amendment. New claim 25 has been added to the application. Therefore, claims 1-3, 7-9 and 25 are pending and at issue in the application.

Claims 11-24, which were withdrawn from consideration, have been cancelled without prejudice to filing a divisional application directed to the subject matter of these claims.

Claims 1 and 2 have been amended to delete the recitation of C₁ to C₃ alkoxy as a substituent for the phenyl or benzyl group of R₂. Claim 7 has been amended to correct an error in the nomenclature of compound (2), as courteously pointed out by the examiner in the Office Action. These amendments add no new matter.

New claim 25 recites preferred couplers of the present invention, and is supported by the specification at page 5, lines 1-11 and page 21, lines 10-21.

Claims 1-3 stand rejected under 35 U.S.C. §102(b) as being anticipated by a Bischoff et al. publication (Bischoff). It is submitted that this rejection has been overcome and should be withdrawn.

The Bischoff publication discloses 2-[[4-methoxyphenyl]amino]methyl-1,3-benzenediol. The present claims now recite a compound wherein R₂ cannot be an alkoxy substituted phenyl group. The Bischoff publication therefore cannot anticipate the present claims. It should be noted that R₁ can be an alkoxy substituted phenyl because R₂ cannot be hydrogen. Furthermore, claim 3 was not anticipated by the Bischoff publication because R₂ is limited to unsubstituted phenyl.

It is further submitted the claims 1-3 would not have been obvious over the Bischoff publication. The cited reference is directed to investigating the reactions of methylene bases, i.e., RNHCH₂NHR. The cited reference provides no motivation for a person skilled in the art to alter the structures of the disclosed compounds and arrive at the presently claimed compounds. The cited reference also provides no incentive for a person

skilled in the art to alter the structures of the Bischoff publication with any reasonable expectation of providing an improved coupler for use in a hair dyeing system.

Accordingly, it is submitted that the rejection of claims 1-3 over the Bischoff publication should be withdrawn.

It also is submitted that new claim 25 is patentable over the Bischoff publication. Claim 25 recites a preferred set of novel couplers of the present invention. These compounds are not disclosed in the Bischoff publication and are patentable for the reasons set forth above with respect to the patentability of claims 1-3 over the Bischoff publication. It should be noted that, contrary to the contentions in the Office Action, the compound disclosed in the Bischoff publication, i.e., CAS Registry No. 503046-65-9, is *not* disclosed at page 5 of the specification and is *not* recited in new claim 25. The reference discloses a 4-methoxy substituted phenyl substituent, i.e., a methoxy group in the *para*-position. The specification and claim 25 recite a 2-methoxy substituted phenyl substituent, i.e., a methoxy group in the *ortho*-position.

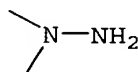
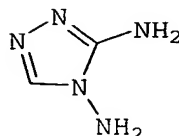
Claims 7-9 stand rejected under 35 U.S.C. §103 as being anticipated over an Emilsson et al. publication (Emilsson), as evidenced by WO 2006/050988 (WO '988). It is submitted that this rejection is in error and should be withdrawn.

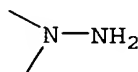
First, it is submitted that any reliance on WO '988 must be summarily dismissed. WO '988 published on May 18, 2006. The present application published on October 10, 2002 as U.S. Patent Publication No. 2002/0147193. It is submitted that WO '988 cannot be relied upon, or cited against the present claims, for any disclosure therein. It is entirely possible that applicants of WO '988 learned information from the present applicants' publication. In effect, this could result in applicants' own teachings being used against them. WO '988 could not be used to support the patentability of the present claims, and likewise cannot be used to defeat the patentability of the present claims.

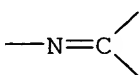
With respect to the rejection over the Emilsson publication, the reference discloses an invention substantially different from the claimed invention. In the claimed invention, 2,6-dimethoxy-benzaldehyde is reacted with an amine having a formula R_1R_2NH .

For both R_1 and R_2 , the atom directly bonded to the nitrogen atom is a carbon atom or hydrogen, which is evident from the definitions of R_1 and R_2 in the claims and the structure of compound (3) in claim 7.

In contrast, the Emilsson publication discloses a reaction between 2,6-dimethoxy-benzaldehyde and the following compound C of the reference:



Note that compound C has the following linkage , and it is through *this* linkage that the reaction occurs as yield compound AK of the reference. Note that the N-N linkage of compound C is different from the NHR_1R_2 compound utilized in the claimed invention. It must be further noted that a true amino group on compound C, i.e., the $-NH_2$ group that is bonded to a ring carbon, does not take part in the reaction of the Emilsson publication. In addition, the reaction product of the Emilsson reference, i.e., compound AK,

contains an  linkage to further differentiate the claimed compound (1) from compound AK.

The present claims would not have been obvious to a person skilled in the art. The reference teaches a different reaction product, i.e., compound AK, from the reaction product of the present claims, i.e., compound (1) of claim 7. Furthermore, the reference utilizes a compound having an $-N-N-$ linkage, i.e., Compound C of the reference, as a starting material. The present claims recite using an amine R_1R_2NH that does not have an $-N-N-$ linkage. The reaction of the reference occurs at the $-NH_2$ of the $-N-N-$ linkage rather than at the $-NH_2$ group bonded to a carbon atom. In the claimed process, the reaction occurs at a nitrogen atom bonded to a carbon atom.

Because of the substantial differences between the reactions in the cited reference and the claimed method, a person skilled in the art would not have been motivated by the cited references to make the jumps in reasoning and modifications necessary to arrive at the presently claimed reaction product using the presently claimed starting material, e.g., the reaction product and starting material of the reference are structurally different from those claimed.

Furthermore, the Emilsson publication actually leads persons skilled in the art away from the presently claimed method. Compound C of the cited reference contains an $-NH_2$ group bonded to a carbon atom which closely approximates the R_1R_2NH compound utilized in the present claimed method. Note that this moiety of Compound C did *not* undergo a reaction in the Emilsson reference. In contrast the $-NH_2$ group bonded to a nitrogen atom underwent a reaction in the Emilsson reference. Accordingly, persons skilled in the art would not expect an R_1R_2NH amine to react with 2,6-dimethoxy-benzaldehyde, as recited in the claims.

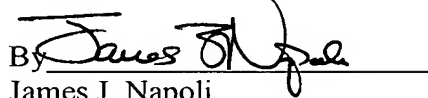
In summary, it is submitted that the rejection of claims 7-9 under 35 U.S.C. §103 as being obvious over the Emilsson publication is in error and should be withdrawn.

All pending claims are now in a form and scope for allowance. An early and favorable action on the merits is respectfully requested.

Should the examiner wish to discuss the foregoing, or any matter of form in an effort to advance this application toward allowance, the examiner is urged to telephone the undersigned at the indicated number.

Dated: January 3, 2007

Respectfully submitted,

By 
James J. Napoli

Registration No.: 32,361
MARSHALL, GERSTEIN & BORUN LLP
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, Illinois 60606-6357
(312) 474-6300
Attorney for Applicant